

August 14, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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SUPPLEMENT TO REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services,
Land Use Services Division Applications for:

Proposed Northridge Fully Contained Community Permit
File No. L96FC001; Proposed Ordinance No. 96-325

Proposed Northridge Urban Planned Development Permit
File No. L94UP001; Proposed Ordinance No. 96-326

Proposed Northridge North Subdivision
File No. L95P0005; Proposed Ordinance No. 96-327

**Proposed Amendments to the Bear Creek Area Zoning
P-Suffix Conditions**
File No. BCCP0002; Proposed Ordinance No. 96-329

Proposed Road Vacation (Bowman and C. Robstad Roads)
File No. V-2270; Proposed Ordinance No. 96-328

Property located in the Novelty Hill portion of the Bear Creek Community Planning Area, approximately 2 miles east of the City of Redmond and west of the City of Duvall, generally bounded by Novelty Hill Road on the north, Northeast 80th Street (if extended) on the south, 254th Avenue Northeast (if extended) on the east, and 219th Avenue Northeast (if extended) on the west.

1. On June 28, 1996, the Hearing Examiner's office issued its report and recommendation for the Northridge applications referenced above. Requests for reconsideration affecting various aspects of the June 28, 1996, report and the attached permit were received from Lake Washington School District No. 414, the Quadrant Corporation, Port Blakely Tree Farms, and the City of Redmond. A notice of reconsideration was issued to parties of record on July 17, 1996, with a comment deadline set for Friday, August 2, 1996. Responsive comments have been received from the King County Land Use Services and Transportation Planning Divisions, the Quadrant Corporation, the Novelty Hill Ranch Estates Homeowners' Association, and Joan C. Wells.
2. No adverse comments were received concerning the request of the Lake Washington School District and Quadrant to amend Findings No. 107 and 111 within the June 28, 1996, report nor to Port Blakely's and Quadrant's request to amend certain provisions within Section 3.9 and 3.10 of the proposed FCC/UPD permit. As stated within the notice of reconsideration these requested modifications entail acceptable minor clarifications to the report and permit which do not alter the substantive provisions of either document. Accordingly, the requests are granted substantially as proposed.

3. The Applicant Quadrant Corporation has requested that Paragraph 2.4.5.b of the proposed UPD permit be revised to reduce the required perimeter buffer width adjacent to the proposed retail area along Novelty Hill Road from 100 feet to 50 feet. In support of its request Quadrant has submitted a letter from Margaret Harrison, a landscape architect and arborist, who has outlined a detailed set of conditions under which she believes an opaque 50-foot natural tree buffer can be created and maintained. In addition, Jon Pederson, a site development specialist with the King County Land Use Services Division, has submitted both his comments on the factors influencing the survival of a forested buffer next to an area of urban development and a useful selection of articles derived from the academic literature. Finally, the Novelty Hill Ranch Estates Homeowners' Association has submitted briefing in opposition to any change in the proposed permit condition.
4. In general, the technical consensus appears to be that creating a long, narrow native vegetation buffer with an extensive edge exposure out of an existing dense forest stand is a risky proposition whether the width is set at 50 feet or 100 feet. There is agreement that a narrow buffer properly managed can be more successful than a wider one which lacks adequate management. Matters of particular concern include the protection of root systems from construction impacts and impervious surfacing, the replacement of hazardous and diseased trees, avoidance of major changes in the hydrologic regime, and the tapering of vegetation to minimize wind exposure impacts. Mr. Pederson submitted two photographs demonstrating that an intensively managed 60-foot buffer with infill plantings can provide better visual screening than an unmanaged 100-foot buffer of similar natural composition. In light of the foregoing, our recommendation is not to delete the 100-foot buffer requirement but to allow implementation of an alternative provision of lesser width based on review and approval of a detailed and comprehensive long term buffer management plan. Findings and conditions have been modified to reflect such changes.
5. The City of Redmond has requested reconsideration of the Examiner's fundamental analysis that the EIS documents for Northridge adequately describe transportation impacts within the City of Redmond and that the proposed levels of impact mitigation are consistent with SEPA requirements. While the City has provided an elaborate articulation of its position, its arguments are essentially the same as those presented before the Examiner within the public hearing. As such, the City's contentions have been dealt with in detail previously and no useful purpose would be served in revisiting these issues on reconsideration.

The City and the Examiner fundamentally disagree as to what SEPA requires, and such differences are appropriately dealt with within an appeal context. Essentially, the Examiner does not believe that certain statements taken from older judicial cases accurately reflect current SEPA policy in view of the recent legislative enactments contained in ESHB 1724. Further, it remains the Examiner's conclusion that the City has not provided an adequate evidential basis for its assertions of significant traffic impacts to Redmond facilities and, in view of the statutory obligation to assign substantial weight to the procedural determinations of the County SEPA official, this evidential shortcoming is fatal to the City's position regardless of what threshold

trip figure is plugged into its mitigation formula.

6. The record demonstrates that the City is incorrect in its assertion that County staff applied a 50% trip reduction factor to its base mitigation payment figure of \$829,556 for Redmond traffic impacts. It is true, however, that the sum subject to negotiation above the \$829,556 threshold was reduced by staff to reflect a 50% trip allocation factor. Accordingly, Finding No. 130 and permit Condition No. 2.11.2 will be modified to increase the total mitigation cap subject to the negotiation process to \$10,385,000 in order to avoid prejudicing the possibility that negotiations may include impact mitigation at up to 100% of trip assignment.
7. Finally, the Order attached hereto makes certain minor corrections to the text of the June 28, 1996, report and attached permit and provides for an appeal period extension during which new appeals may be filed or previously submitted appeal statements modified.

ORDER:

The Hearing Examiner's report and recommendation dated June 28, 1996, for Northridge and the proposed FCC/UPD permit attached thereto are hereby revised and amended as follows:

1. The following new exhibits are admitted to the record:

Exhibit No. 354 Request for Reconsideration (with attachments) submitted by Lake Washington School District No. 414
Exhibit No. 355 Motion for Reconsideration Submitted by Port Blakely Tree Farms
Exhibit No. 356 Motion for Reconsideration by the Quadrant Corporation
Exhibit No. 357 City of Redmond's Request for Reconsideration
Exhibit No. 358 Memo (with attachments) dated July 27, 1996, from Jon Pederson, Site Development Specialist, to Stafford Smith, Deputy Hearing Examiner
Exhibit No. 359 Letter dated August 2, 1996, from William G. Hoffman, Transportation System Planning Section, to Stafford Smith, Hearing Examiner
Exhibit No. 360 Memorandum of the Quadrant Corporation in Support of Quadrant's Motion for Reconsideration and in Opposition to City of Redmond's Request for Reconsideration
Exhibit No. 361 Novelty Hill Ranch Estates' Response in Opposition to Motion for Reconsideration
Exhibit No. 362 Letter dated July 20, 1996, from Joan C. Wells to Office of the Hearing Examiner in support of project

2. Findings No. 107 and 111 within the Report and Recommendation are modified to read as follows:

107. Quadrant and the Lake Washington School District have entered into an agreement for the dedication of a school site. The process and procedures for the dedication are set forth in a Letter of Intent dated April 22, 1996, and in a real estate agreement between Quadrant and the District. As of the date of recording the deed Quadrant shall receive a credit against the school impact fees due at final plat recording for the

value of the elementary school site as set forth in the real estate agreement. With the payment of the required school impact fees and the dedication of this site there will be no unmitigated significant adverse impacts to schools arising from the development of Northridge.

111. Northridge will develop the following parks: (1) a 10-acre public park with two lighted soccer fields, playground equipment, restrooms, picnic shelter and parking facilities; (2) a 10-acre community park with two tennis courts, playground equipment, picnic area, and one other significant facility; (3) two 1.7-acre rotary parks to provide central neighborhood recreational and gathering areas; (4) a 1.5-acre grass play area within a 4.4-acre wooded parcel to allow for informal games and gatherings; (5) a 1.5-acre neighborhood park with playground equipment and basketball or tennis courts in the southern portion of Northridge; (6) an on-site recreational space and play area in the high-density and medium-density nodes consistent with the provisions of the King County Code; and (7) neighborhood parks within each of the medium-density residential nodes. Additionally, the Northridge Elementary School is expected to contain two recreational fields which will generally be available for community user groups outside of school hours. Community use of the school fields will be governed by Lake Washington School District Policy KG.
3. The following new sentence is added to the end of Finding No. 130:

"However, in order to avoid prejudging the negotiation process concerning a MOU for Redmond traffic impacts, the total mitigation cap will be raised to \$10,385,000 to allow for the possibility that an agreement may be reached for a level of mitigation which does not contain a 50% trip reduction factor."
4. The last sentence of Finding No. 173 is deleted and replaced with the following new sentence:

"These policy changes, when considered in the context of newly adopted FCC containment requirements and the existing Bear Creek policy prohibiting strip commercial development, present a strong regulatory case for the proposition that the Northridge retail area needs to be deleted, relegated to an interior site location where its off-site impacts can be minimized, or at least substantially buffered to contain urban impacts on-site."
5. Delete Finding No. 174 and replace it with the following new text:

"In light of the foregoing, at a minimum the Northridge retail area needs to be set back and buffered sufficiently to avoid creating land use conflicts and urbanizing pressures on adjacent rural residential properties to the north. This means that Quadrant's quite understandable desire to maximize highway pass-by retail exposure along Novelty Hill Road cannot be accorded weight in the decision-making process. Our minimum recommendation is for either retention of a 100-foot native vegetation buffer along Novelty Hill Road adjacent to the retail tract or for an intensively managed 70-foot buffer providing a 50-foot width

of dense tree cover. While unmanaged 50-foot vegetated buffers may serve adequately next to residential areas and low density business parks, they are unlikely to survive neither the more severe pressures of adjacent commercial construction activity and subsequent heavy shopping and traffic use nor the major ecological changes and risk exposures necessarily attendant thereto. We recognize that imposition of more stringent buffer requirements may result in the retail area being downsized or growing at a pace more in step with surrounding FCC/UPD residential and business park development. While this may be unattractive to the developer, it is more in keeping with the containment goals of the FCC designation and with recently revised BCCP policies."

6. Revise the second to the last sentence within Finding No. 196 beginning at the bottom of page 53 to read as follows:

"Accordingly, the attachment E-6 requirements (attachment E-7 in the Northridge permit) have been modified to allow the 1,350 VHP figure to be modified based on the actual capacity of the roadway."

7. Add to the cover page of the proposed Northridge Fully Contained Community Permit and Urban Planned Development Permit below the notation "Revised May 22, 1996" the following new language:

"Modified June 28, 1996, and August 14, 1996 by recommended decision of the King County Hearing Examiner."

8. Within the third sentence of Section 2.11.2 of the proposed FCC/UPD Permit change the term "\$10.1 million" to "\$10,385,000."

9. Renumber existing Permit Condition No. 3.1.a(5) to 3.1.a(6) and add the following new paragraph as 3.1.a(5):

"(5) Reduction of the 100-foot Type 1 perimeter buffer required by Section 2.4.5.b along Novelty Hill Road adjacent to the proposed retail/commercial area to 70 feet based on the submittal to and approval by DDES of a buffer management plan meeting the following criteria:

- i. The buffer shall consist of native trees and understory vegetation supplemented by infill plantings to a width of 50 feet and adjoined on either side by a 10-foot wide protective zone consisting of an informal native plant palette to achieve a natural layering of the forest edge.
- ii. The northern edge of the 70-foot buffer may extend to the southern boundary of the Novelty Hill Road right of way provided that all construction activity for Novelty Hill Road improvements can be contained within the right of way. If road construction activity will entail impacts south of the right of way, the northern buffer border shall be the southern boundary of the construction zone. Prior to any clearing or grading for either the Novelty Hill Road improvement project or the onsite retail/commercial area, a 6-foot high temporary chain link fence and "Do Not Disturb" signage shall be installed on either side of the 70-foot buffer zone. No grading or heavy equipment operation shall be permitted within the

fenced buffer zone. No retail or commercial building shall be erected within 100 feet of the southern buffer boundary. No utility trenches shall be allowed within the buffer, and natural hydrology shall be maintained.

iii. The buffer management plan shall be prepared and administered by a certified arborist or urban forester and provide during the site construction phase for identification of significant trees, hazardous and diseased tree evaluations, replacement of removed trees and infill supplemental plantings, appropriate irrigation of new vegetation, annual spring monitoring of the buffer, and general construction management procedures necessary to protect the buffer zone.

iv. The buffer management plan shall provide procedures and binding financial commitments for long term maintenance of the buffer in perpetuity. After completion of site construction this shall include provisions for assessment of the buffer's health on a regular basis (not less than every five years) with replacement of hazardous and diseased trees at a 3:1 ratio at a 10-foot minimum height, plus any infill plantings necessary to maintain visual opacity. A financial commitment for construction of a permanent 8-foot high fence or wall along the southern boundary of the buffer zone adjacent to the retail/commercial development area shall be required as a part of the plan and implemented if DDES determines that visual opacity cannot be effectively maintained over the long term through vegetative measures alone."

10. Delete the last sentence within Permit Condition NO. 3.9.c and replace it with the following new sentence:

"If a UPD developer fails to submit satisfactory midpoint review documentation regarding its project within the 90-day period after notice has been issued as required herein, further permits shall not be approved for that UPD development until the required documentation has been submitted."

11. Within Permit Section 3.9.e the following modifications are made:

- a. Within the second sentence of the opening paragraph insert the word "of" between the words "quantity" and "impact".
- b. Within Section 3.9.e(i) insert the following after the words "UPD approval": "as defined in 4.1.c, below".
- c. Add the following sentence as a new Section 3.9.e(vi):

"The traffic Memorandum of Understanding with the City of Redmond precludes the imposition of additional mitigation on Blakely Ridge for Redmond traffic impacts."

12. Add the following sentence as new Permit Section 3.10.e:

"The second sentence of Section 4.1.c of the Northridge Permit is added to Section 4.1.C of the Blakely Ridge

permit."

13. The third paragraph within Footnote 8 of Attachment 4 to the FCC/UPD Permit is amended to read as follows:

"Requests to allow other retail land uses in the business park which are not permitted in the Northridge land use table shall be reviewed through the administrative minor modification process."

14. An extension of the period for appealing the Examiner's report and recommendation and attached FCC/UPD permit is provided to all parties of record through August 28, 1996. The requirements for filing an appeal are stated beginning at the bottom of page 61 within the Examiner's June 28, 1996, report and recommendation. Parties who have previously filed appeals with the County Council will be permitted to amend their appeal statements within the appropriate time limits, as extended.

ORDERED this 14th day of August, 1996.

Stafford L. Smith, Deputy
King County Hearing Examiner

TRANSMITTED this 14th day of August, 1996, to all parties of record and interested persons.

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